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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CONT.CAS(C) 503/2018 & CM APPL. 23838/2024**
RAMESH CHAND CHOPRA

..... Petitioner

Through: Mr. P.K. Dey, Sr. Adv. with Ms.
Shilpi Dey & Ms. Upasana
Mukherjee, Advs.
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pradeepdeyschamber@gmail.com

versus

M K BHARTI & ORS.

..... Respondents

Through: Ms. Beenashaw Soni, ASC with Ms.
Mansi Jain, Adv. for DDA
M: 9810046611
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beenashaw.lawoffice@gmail.com
Mr. Raghvendra Upadhyay, Panel
Counsel with Ms. Purnima Jain & Mr.
Chandra Kishor Yadav, Advs. for
GNCTD.
Mr. Vikram Jetly, CGSC with With
Ms. Shreya Jetly, Adv. for R-5.
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CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

25.04.2024

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1. The application being *CM APPL. 23838/2024* has been filed on behalf of the petitioner for direction to the Sub Divisional Magistrate (“SDM”)/Tehsildar, Mehrauli to file the Demarcation Report dated 22nd June, 2023 of the plot in question, i.e., Khasra No. 1032 (Old No. 1573).
2. Learned counsel appearing for the petitioner submits that the writ



petition filed by the petitioner, i.e., *W.P.(C) No. 2059/2017* was disposed of with direction to the SDM/Tehsildar, Mehrauli that the demarcation of the plot in question be done at the earliest.

3. He submits that pursuant to the aforesaid order, the SDM carried out demarcation of the land in question on 22nd June, 2023 in the presence of the officials including the surveyor and the petitioner herein.

4. He submits that the petitioner has applied for certified copy of the Demarcation Report dated 22nd June, 2023. However, despite the application of the petitioner and the pendency of the present petition, the SDM/Tehsildar has not filed its Demarcation Report before this Court.

5. Per contra, Learned Standing Counsel appearing on behalf of respondent no.5-Archaeological Survey of India (“ASI”) submits that the Demarcation Report has already been filed before this Court by the ASI as well as by the petitioner himself. Thus, he submits that the order dated 09th May, 2017 passed by this Court, stands complied with.

6. At this stage, learned Senior Counsel appearing for the petitioner draws the attention of this Court to the Status Report filed on behalf of respondent no.5-ASI and submits that the ASI has raised objection to the said demarcation report and are falsely claiming that the area in question falls within the Protected Monument.

7. Having heard learned counsel for the parties, at the outset this Court notes that by order dated 09th May, 2017 passed in *W.P.(C) No. 2059/2017*, the directions had been issued for carrying out demarcation of the land in question, in the following manner:

“Petitioner has prayed that respondents be directed to demarcate the land comprising in Khasra No. 1573 (New Khasra No. 1032) admeasuring 1 Bigha 17 Biswa situated in the Revenue Estate of Village Mehrauli, New Delhi. Petitioner claims to be the owner of the



aforementioned land.

Learned counsel for the respondent nos. 1 to 3 submits that the respondents are willing to carry out demarcation but the same cannot be done immediately since the Field Book of the area has been misplaced. This fact has already been brought to the notice of a Bench of coordinate jurisdiction in CONT. CASE (Civil) 458/13 titled Vinod Kumar Jain vs. D.M. Sopolia & Ors. and as per the directions of the Court, field book is being reconstructed. He submits that once the Field Book is reconstructed, respondent nos. 1 to 3 will process the application of the petitioner for demarcation. In view of this statement, writ petition has not been pressed and the same is disposed of as withdrawn.”

8. Pursuant to the aforesaid order dated 09th May, 2017, demarcation has already been carried out by the concerned SDM, Mehrauli on 22nd June, 2023. The said demarcation report dated 22nd June, 2023 is already on record, having been filed by the petitioner as well as by respondent no.5-ASI.

9. This Court notes the objection as raised by the respondent no.5-ASI in its status report, the relevant portion of which reads as under:

“xxx xxx xxx

x. It is submitted that Demarcation was conducted by Tehsildar (Mehrauli) on dated 22.06.2023 in presence of our (ASI) Surveyor. It is very strange that revenue department marked the Khasra no. 1032(New) old Khasra No. 1573 inside the tank of Hauz Shamshi. This need to be re-checked and physically demarcated and this was pointed out to Revenue official at the site by ASI's surveyor that this Khasra no. falls in the Centrally Protected Tank i.e. Hauz Shamshi and it is also informed to Tehsildar (Mehrauli) in written. The said letter dated 15.09.2023 bearing no. DLH-43112023-M-6297 to 6303 was written by Superintending Archaeologist to the Tehsildar (Mehrauli) office of the SDM (Mehrauli) Govt. of NCT of Delhi. A Copy of letter dated 15.09.2023 bearing no. DLH-43112023-M-6297



to 6303 annexed herewith as Annexure R-3.

xxx xxx xxx”

10. This Court also notes the submission raised by the Learned Senior Counsel appearing for the petitioner that the aforesaid objections raised by the ASI, are false and contrary to the gazette notification dated 25th October, 1918.

11. However, the submissions made by learned Senior Counsel appearing for the petitioner, are denied by learned counsel appearing for the ASI.

12. Considering the aforesaid objections raised by the ASI, it is directed that the SDM, Mehrauli shall carry out a fresh demarcation of the area in question expeditiously, within a period of eight weeks from today. Before carrying out the fresh demarcation, the SDM/Tehsildar, Mehrauli shall give notices to the appropriate parties, including the petitioner herein who shall be present at the time of fresh demarcation.

13. It is further directed that in case the petitioner has any grievance with regard to the fresh demarcation report that would be made by the SDM/Tehsildar, Mehrauli, the petitioner would be at liberty to take appropriate steps to challenge the same in accordance with law.

14. With the aforesaid directions, the present contempt petition is disposed of along with the pending applications.

15. The next date of hearing, i.e., 27th May, 2024 stands cancelled.

MINI PUSHKARNA, J

APRIL 25, 2024/kr